

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF APACHE)	
TRANSMISSION COMPANY, INC. FOR A)	
DECLARATORY ORDER RELATING TO ITS)	CASE NO.
PIPELINE REPLACEMENT PROGRAM;)	2026-00039
APPROVAL OF NEW PIPELINE REPLACEMENT)	
SURCHARGE RATES; AND OTHER GENERAL)	
RELIEF)	

ORDER

On March 11, 2026, Apache Gas Transmission Company, Inc (Apache) tendered an application to the Commission requesting a Certificate of Public Convenience and Necessity (CPCN) and approval of new pipeline replacement surcharge rates. On March 20, 2026, Commission Staff issued a deficiency letter. On March 23, 2026, Commission Staff issued a notice of informal conference (IC), and that conference was held on March 24, 2026.¹ On April 8, 2026, Apache filed a motion to amend its application along with the Amended Application (Amended Application).² In the Amended Application, Apache requested an order declaring that pipeline replacement projects do not require a CPCN, declaring these projects be included in its Pipeline Replacement Program (PRP), requesting approval of new pipeline replacement surcharge rates, and other general relief.³ On May 1, 2026, the Commission granted Apache's motion to amend its

¹ See Informal Conference Memorandum and Attendance List (filed Mar. 26, 2026).

² Apache's Amended Application (Amended Application) (filed Apr. 8, 2026).

³ Amended Application at 1.

application and suspended the proposed surcharge rates for one day.⁴ Apache responded to two requests for information by Commission Staff.⁵ This matter now stands submitted for decision.

BACKGROUND

Apache is a utility as that term is defined in KRS 278.010(3) and therefore is subject to the Commission's jurisdiction. Apache owns an intrastate natural gas transmission line that extends from the Enbridge Energy Pipeline in Metcalf County, Kentucky to a location west of the city of Burkesville, Kentucky, and provides wholesale natural gas services to one customer, Burkesville Gas Company, Inc. (Burkesville Gas) in Cumberland County, Kentucky.⁶ David Shirley has served as both President of Burkesville Gas since 1990 and President of Apache since 1997.⁷

Apache's PRP was initially approved in Case No. 2017-00168 to fund certain replacements and repairs to Apache's existing natural gas pipelines necessary to correct issues identified by the Commission's Division of Inspections.⁸ In that case, the Commission granted approval to begin recovering fixed monthly PRP amounts of \$3 per residential customer and \$3.50 per commercial customer, through the local gas

⁴ Order (May 1, 2026).

⁵ Apache's Response to Commission Staff's First Request for Information (Staff's First Request) (filed May 8, 2026).

⁶ Amended Application at 1-2.

⁷ Application (tendered March 11, 2026), Direct Testimony of David Shirley (Shirley Direct Testimony) at 2.

⁸ Case No. 2017-00168, *Application of Apache Gas Transmission Company, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Implementation of a Pipeline Replacement Program, Approval of Financing Pursuant to KRS 278.300 and Application of Apache Gas Transmission Company, Inc. and Burkesville Gas Company, Inc. for Approval of a Gas Pipeline Replacement Surcharge and Tariff* (Ky. PSC Aug. 29, 2017), Order.

distribution company⁹ that is Apache's sole customer, to pay the debt service on two loans that financed the approved projects.¹⁰ The Commission, by Order entered on December 21, 2017, authorized Apache to obtain two loans from the Kentucky Highlands Investment Corporation.¹¹ The first approved loan was for \$50,000, carries a 7.5 percent interest rate, and has a term of 72 months.¹² The second loan approved was for \$100,000, has a 7.5 percent interest rate, and has a term of 120 months.¹³

In Case No. 2018-00106,¹⁴ Apache filed an application to revise its PRP rates as the prior approved charges did not provide sufficient funds to cover the debt service of the yet to be closed second loan.¹⁵ The Commission approved an additional \$0.29 per Mcf volumetric charge to generate sufficient revenues to cover the debt service of the second loan.¹⁶ The Commission required that revenue from the PRP rates be held in escrow and used to repay the loans used for the approved PRP projects.¹⁷

⁹ Burkesville Gas Company, Inc.

¹⁰ Case No. 2017-00168, Aug. 29, 2017 Order at ordering paragraph 6.

¹¹ Case No. 2017-00168, (Ky. PSC Dec. 21, 2017), Order at 1-2; Post Case File (filed Mar. 14, 2018), Apache Gas Transmission Company, Inc. Loan Information Pursuant to Commission Order; and Post Case File, (filed May 15, 2019), Apache Gas Transmission Company, Inc. Loan Information Pursuant to Commission Order.

¹² Case No. 2017-00168, Dec. 21, 2017 Order at 1-2.

¹³ Case No. 2017-00168, Dec. 21, 2017, Order at 1-2.

¹⁴ Case No. 2018-00106, *Application of Apache Gas Transmission Company, Inc., Annual Pipeline Replacement Program Filing to Approve New Pipeline Replacement Surcharge Rates Beginning with May 1, 2018 Billing Cycle* (Ky. PSC Apr. 17, 2018).

¹⁵ Case No. 2018-00106, Annual Pipeline Replacement Program Filing (filed Mar. 14, 2018) at 1.

¹⁶ Case No. 2018-00106, Apr. 17, 2018 Order at 2.

¹⁷ See Case No. 2017-00168, Aug. 29, 2017 Order at 5-6; Case No. 2018-00106, Apr. 17, 2018 Order at 2.

In Case No. 2019-00032,¹⁸ the Commission authorized Apache to include repairs to its Marrowbone Creek pipeline in its PRP program. Apache did not request approval of additional financing because the total costs of the project were not known.¹⁹ There was no change in the surcharge at that time.²⁰

In Case No. 2020-00067,²¹ Apache reported that it had completed all approved projects, including the Marrowbone Creek project.²² Apache stated that it would need additional funding to cover the remaining costs of the PRP work.²³ Apache did not seek a rate adjustment in Case No. 2020-00067 but stated that approval would be requested for any necessary increase in the PRP rate when Apache finalized and sought approval for financing.²⁴ The Commission did not make any changes to the mechanism in that case.²⁵

In Case No. 2021-00120,²⁶ Apache notified the Commission that the Small Business Administration (SBA) was making payments on Apache's outstanding PRP

¹⁸ Case No. 2019-00032, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.* (Ky. PSC Apr. 29, 2019), Order at 3-4.

¹⁹ Case No. 2019-00032, (filed Apr. 18, 2019), Apache's Response to Commission Staff's First Request for Information Item 1.

²⁰ Case No. 2019-00032, Apr. 29, 2019 Order at 3.

²¹ Case No. 2020-00067, *Adjustment of the Pipeline Replacement Program Rider of Apache Gas Transmission Company, Inc.* (Ky. PSC Mar. 26, 2020).

²² Case No. 2020-00067, Apache's Annual PRP Status Report (2020 Annual Report) (filed Mar. 2, 2020) at 4-5.

²³ Case No. 2020-00067, 2020 Annual Report at 1-2.

²⁴ Case No. 2020-00067, 2020 Annual Report at 1-2.

²⁵ Case No. 2020-00067, Mar. 26, 2020 Order at 2.

²⁶ Case No. 2021-00120, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.* (Ky. PSC May 24, 2021).

loans.²⁷ Apache reported that, with the SBA funding, the funds collected through the PRP surcharge were adequate to cover the debt service on the approved loans and a portion of the costs of the Marrowbone Creek Project.²⁸ Apache indicated that an increase in the PRP could be needed to pay the remaining costs of the Marrowbone Creek project but did not seek an increase at that time.²⁹ In that case, the Commission did not make any changes but noted that any request to increase or decrease to the PRP fee as the result of additional financing or subsequent to a change in the terms of the current financing would be considered in a separate proceeding.³⁰

In Case No. 2022-00057,³¹ Apache stated that the SBA covered its loan payments from February 2020 through June 2020 and from February 2021 through June 2021, which allowed Apache to meet its PRP obligations, and again Apache did not propose a change in its PRP rate. The Commission, once again, approved and continued the PRP without change.³²

In Case No. 2023-00124,³³ Apache stated that the PRP rates collected in 2022 were short of the amount needed to cover the debt service for the calendar year 2022,

²⁷ Case No. 2021-00120, (filed Mar. 1, 2021), Apache's Annual PRP Status Report (2021 Annual Report) at 1.

²⁸ Case No. 2021-00120, (filed Mar. 1, 2021), 2021 Annual Report at 1.

²⁹ Case No. 2021-00120, (filed Mar. 1, 2021), 2021 Annual Report at 1.

³⁰ Case No. 2021-00120, May 24, 2021 Order at 2.

³¹ Case No. 2022-00057, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.* (Ky. PSC Aug. 11, 2022), Order *citing* Application at 1.

³² Case No. 2022-00057, Aug. 11, 2022 Order.

³³ Case No. 2023-00124, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.*, Apache's Annual PRP Status Report (filed Apr. 21, 2023) at 2.

and that a separate filing for authorization to increase the PRP rate would be made.³⁴ The Commission found that Apache's rate should remain the same, and that any request for an increase or decrease in the PRP rate would be considered in a separate proceeding.³⁵

In Case No. 2024-00167, Apache stated that its annual debt service for the two PRP related notes amounted to \$24,656.52 for 2023.³⁶ Due to weather conditions, total sales were lower in fiscal year end 2023, which resulted in PRP revenue of \$20,233.45.³⁷ To ensure Apache successfully met the SBA debt service payments from August to November, it borrowed a total of \$3,900 from Burkesville Gas Company, Inc (Burkesville).³⁸ Apache paid off one of the SBA loans, which made the debt service payments lower than the previous years.³⁹ Apache claimed it could replace approximately 750 feet of 3-inch mains which it had identified for replacement with 6-inch pipe each year without increasing PRP rates.⁴⁰ Apache stated it may request to increase the number of feet to be replaced each year, or to increase the PRP rate to replace the remaining 3-inch mains on a faster timeline.⁴¹ The Commission denied Apache's request to replace the 750 feet of 3-inch pipeline with 6-inch pipe, stating that its current PRP

³⁴ No separate filings requesting authorization to increase the PRP rate were made.

³⁵ Case No. 2023-00124, Oct. 12, 2023 Order at 5-6.

³⁶ Case No. 2024-00167, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.*, Apache's Annual PRP Status Report (2024 Annual Report) at 1.

³⁷ Case No. 2024-00167, 2024 Annual Report at 1.

³⁸ Case No. 2024-00167, 2024 Annual Report at 1-2.

³⁹ Case No. 2024-00167, 2024 Annual Report at 2.

⁴⁰ Case No. 2024-00167, 2024 Annual Report at 2.

⁴¹ Case No. 2024-00167, 2024 Annual Report at 3.

collections were unlikely to cover the cost, and that the Commission does not generally allow for the immediate expensing and recovery of capital projects through the PRP.⁴² Apache was ordered to continue to collect its previously approved PRP rates.⁴³

In Case No. 2025-00169,⁴⁴ Apache did not request an increase of the PRP rate and the Commission found that that Apache's request to maintain its current PRP rate was reasonable.⁴⁵ The Commission also found that it will consider any request to increase the PRP rate as a separate proceeding should Apache obtain additional financing that will require a modification to its PRP rate, or Apache determines that an increase or decrease is necessary subsequent to the modification of the financing conditions outlined in its pending application.⁴⁶

In Case No. 2025-00301, the Commission authorized Apache to execute a \$50,000 SBA Microloan and a \$50,000 United States Department of Agriculture (USDA) Rural Microentrepreneur Assistance Program (RMAP) Loan through Kentucky Highlands Investment Corporation (KHIC).⁴⁷ The Commission found that

the proposed loans from KHIC are for lawful objects within the corporate purpose of Apache because the financing will enable Apache to continue to provide safe and reliable natural gas service to its sole customer Burkesville Gas, by being able

⁴² Case No. 2024-00167, Mar. 31, 2025 final Order at 10 and 13.

⁴³ Case No. 2024-00167, Mar. 31, 2025 final Order at 13.

⁴⁴ Case No. 2025-00169, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.* (Ky. PSC Dec. 11, 2025), Order.

⁴⁵ Case No. 2025-00169, Dec. 11, 2025 Order at 6-7.

⁴⁶ Case No. 2025-00169, Dec. 11, 2025 Order at 7.

⁴⁷ Case No. 2025-00301, *Electronic Application of Apache Gas Transmission Company, Inc. for Approval of the Authority to Obtain Financing* (Ky. PSC. Nov 21, 2025), Order at 5.

to obtain the liquidity necessary to maintain and improve the resiliency and reliability of its transmission system.⁴⁸

In that case, the Commission noted Apache's plan to replace approximately 552 feet of its transmission pipeline at five different sites, including the site on Ann Hope Road. The Commission stated that the proposed project will allow Apache to improve the reliability and resiliency of its pipeline and continue to provide safe and reliable service to its customers.⁴⁹

LEGAL STANDARD

Apache filed its Amended Application pursuant to Section 19 of 807 KAR 5:001.

The regulation provides in pertinent part:

- (1) The commission may, upon application by a person substantially affected, issue a declaratory order with respect to the jurisdiction of the commission, the applicability to a person, property, or state of facts of an order or administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.
- (2) An application for declaratory order shall:
 - (a) Contain a complete, accurate, and concise statement of the facts upon which the application is based;
 - (b) Identify all statutes, administrative regulations, and orders to which the application relates; The issuance of a declaratory order is permissive and at the discretion of the Commission.

⁴⁸ Case No. 2025-00301, Nov. 21, 2025 Order at 4.

⁴⁹ Case No. 2025-00301, Nov. 21, 2025 Order at 4.

The issuance of a Declaratory Order is permissive and at the discretion of the Commission.⁵⁰

Apache requested a declaratory Order that its pipeline replacement projects do not require a CPCN pursuant to KRS 278.020. KRS 278.020(1)(a) states that, in pertinent part,

[n]o person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except: (1) Retail electric suppliers for service connections to electric-consuming facilities located within its certified territory; (2) Ordinary extensions of existing systems in the usual course of business;

Those exceptions are further described in 807 KAR 5:001 Section 15(3), which states:

A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders services, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

Apache also requested to increase its pipeline replacement surcharge rate. In accordance with KRS 278.030, the Commission must ensure that utility rates are fair, just and reasonable to discharge its duty under KRS 278.040 to ensure that utilities comply with state law. Pursuant to KRS 278.509, a utility is allowed to record costs for investment

⁵⁰ See Case No. 2023-00308, *Electronic Petition of Kenergy Corp. for a Declaratory Order* (Ky. PSC Aug. 6, 2024), Order.

in natural gas pipeline replacement programs that are not recovered in existing rates, provided that the Commission determines the costs are fair, just and reasonable.

DISCUSSION AND FINDINGS

Declaratory Order

The proposed pipeline replacement project includes four locations totaling approximately 553 feet of 3 inch SDR 11 main replacements.⁵¹ Apache estimated that the projects could begin around June 22, 2026, depending on coordination with Scotts Construction Company, and once begun, will take approximately three to four weeks to complete.⁵² Burkesville Gas Company, Inc. will also provide project oversight and “perform the pipe fusing, joining/couplings, tracer wire installation, opening of access points on each side of the bore, and backfilling of those access points after the bore and pipe installation work is complete.”⁵³ Apache provided a map of the proposed pipeline replacement locations.⁵⁴ Apache stated that the proposed PRP projects are necessary because certain sections of Apache’s existing 3-inch main are exposed or inadequately buried, which presents an increased risk of damage and potential service issues.⁵⁵

Apache stated that the estimated total project cost for the identified projects and associated legal/regulatory costs is \$55,994.20.⁵⁶

⁵¹ Amended Application at 4.

⁵² Apache’s Response to Staff’s First Request, Item 2.

⁵³ Apache’s Response to Staff’s First Request, Item 3.

⁵⁴ Apache’s Response to Staff’s First Request, Item 3, Confidential Attachment.

⁵⁵ Shirley Direct Testimony at 8.

⁵⁶ Apache’s Response to Staff’s Second Request, Item 3.

Apache stated that the length of pipeline to be replaced in the various projects are the type of projects that are in ordinary extensions of its existing system in the usual course of business, and that because of this it seeks a declaration that the projects do not require a CPCN.⁵⁷

Having considered the record and being otherwise sufficiently advised, the Commission finds that Apache's request for a declaratory Order should be granted. The Commission finds that a CPCN is not required for this project only.

As noted above, in Case No. 2017-00168, the Commission previously granted Apache's CPCN for its PRP program and found that Apache has a need to replace pipeline.⁵⁸ As demonstrated in Case No. 2019-00032, the Commission found that a damaged pipeline that required emergency replacement on an expedited basis could be included in the PRP program without a separate CPCN analysis.⁵⁹ The intent of the Commission was that additional pipeline replacement projects could be included in the PRP without a separate CPCN analysis as long as the project was requested in be included in the PRP. Therefore, based on the need for this project as discussed above, the Commission approves Apache's request to include the proposed project in the PRP.

Pipeline Replacement Surcharge Rates

The current PRP charge to Burkesville is \$3.00 per Burkesville residential customer, \$3.50 per Burkesville non-residential customer and \$0.29 per mcf for all mcf

⁵⁷ Amended Application at 4.

⁵⁸ Case No. 2017-00168, Dec. 21, 2017 Order at 1-2.

⁵⁹ Case No. 2019-00032, Apr. 29, 2019 Order at 2-3.

sold regardless of customer class.⁶⁰ In its amended application, Apache requested an increase in the PRP Rider rate of \$0.30 per Mcf, which would bring the total to \$0.59 per Mcf.⁶¹

In Case No. 2025-00301,⁶² Apache initially proposed a flat volumetric surcharge increase of \$0.44 per Mcf; however, Apache anticipated beginning recovery on April 1, 2026.⁶³ During the discovery process, Apache provided the proposed \$0.30 per Mcf surcharge beginning recovery on April 1, 2026 would no longer generate sufficient revenue to fully satisfy the system's 2026 debt service requirements and applying only the \$0.30 per Mcf surcharge over the shortened remainder of the year would create a structural funding deficiency and leave the utility unable to fully recover its required 2026 debt service obligations.⁶⁴ In response to Staff's Second Request, Apache reevaluated its projected cash flow needs and determined that a temporary surcharge of \$0.6024 per Mcf starting July 1, 2026 is necessary for the balance of calendar year 2026.⁶⁵ This temporary rate is designed to recover the revenue shortfall, ensure full funding of the system's annual debt service obligations, and eliminate any projected cash flow deficiencies before year-end.⁶⁶

⁶⁰ Amended Application at 2-3 and Exhibit C.

⁶¹ Amended Application at 5.

⁶² Case No. 2025-00301, *Electronic Application of Apache Gas Transmission Company, Inc. for Approval of the Authority to Obtain Financing* (Ky. PSC Nov. 21, 2025), final Order.

⁶³ Case No. 2025-00301, Nov. 21, 2025 final Order and Application, Exhibit C.

⁶⁴ Amended Application, Exhibit C.

⁶⁵ Apache's Response to Staff's Second Request, Item 8.

⁶⁶ Apache's Response to Staff's Second Request, Item 8.

Having considered the record and being otherwise sufficiently advised, the Commission approves the temporary volumetric surcharge of \$0.6024 per Mcf for the remainder of calendar year 2026 to ensure that Apache can meet its finalized debt obligations.

In Case No. 2026-00151, Apache's most recent annual PRP filing, the Commission granted Apache an extension no later than thirty days after the final Order regarding the Amended Application filed in this matter, Case No. 2026-00039, are resolved.⁶⁷ The Commission finds that the PRP surcharge should be reevaluated in Apache's current PRP filing, Case No. 2026-00151,⁶⁸ at which time the Commission will review the utility's actual collections, outstanding debt service obligations, and projected revenue requirements to determine the appropriate surcharge rate going forward. The Commission finds that the increased rate may not be required to meet the debt obligations long-term. This finding is, in part, based upon Apache's recognition of increases temporary nature by saying it would "be willing to implement a temporary 2026 surcharge rate based on the Commission-approved effective date, with the surcharge rate then reducing to the ongoing \$0.30/Mcf level after the temporary 2026 shortfall has been addressed."⁶⁹

Additionally, the Commission finds that all revenues collected through the PRP surcharge should continue to be deposited into the dedicated PRP escrow account, and

⁶⁷ Case No. 2026-00151, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.* (Ky. PSC June 8, 2026), Order.

⁶⁸ Case No. 2026-00151, *Electronic Annual Pipeline Replacement Program Filing of Apache Gas Transmission Company, Inc.*

⁶⁹ Apache Gas's Response to Staff's Second Request, Item 8.

Apache should submit accounting statements with its quarterly Gas Cost Adjustment (GCA) filings to ensure ongoing transparency and regulatory oversight. The Commission also encourages Apache to consider a levelized recovery method, a mix of a fixed monthly rate with a volumetric charge, for the PRP surcharge in its annual PRP filing.

IT IS THEREFORE ORDERED that:

1. Apache's request for a declaratory order is granted.
2. Apache is authorized to implement a PRP surcharge of \$0.6024 per Mcf effective July 1, 2026. The surcharge shall be reviewed in Apache's next annual PRP filing in 2027, at which time the Commission will determine the appropriate PRP surcharge rate based on the utility's updated revenue requirements, debt service obligations, and actual surcharge collections.
3. Within 20 days of the date of this Order, Apache shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth revised PRP rates approved or as required herein and reflecting their effective date and that they were authorized by this Order.
4. This case is closed and removed from the Commission's docket.

Entered on this 24th day of June, 2026.

PUBLIC SERVICE COMMISSION



Angie Hatton
Chair



Mary Pat Regan
Vice Chair



Andrew W. Wood
Commissioner



Barry L. Mayfield
Commissioner

ATTEST:

 RP

Linda C. Bridwell, PE
Executive Director

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